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10/609,325

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Vincent S. Darago

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EXAMINER

HOANG, HIEU T

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/609,325 | Applicant(s) DARAGO ET AL. | |
| | Examiner HIEU T. HOANG | Art Unit 2452 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 86-110 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 86-110 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment filed on 04/10/2009.
2. Claims 86-110 are pending.

Response to Amendment

3. The 35 U.S.C. 112 second paragraph rejection of claims 87-106 has been withdrawn due to the amendment.

Response to Arguments

4. Applicant's arguments have been fully considered but they are unpersuasive.
5. As to claim 86, applicant argues that Wiser-ON-Shear (especially ON supported by Fabrizio) teaches away from disabling caching to prevent copying. See *In re Fulton*, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004) (However, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed...."). There is no disclosure, teachings and/or suggestions in Fabrizio that would enable one of ordinary skilled in the art to conclude that Fabrizio avoids disabling cache to prevent copying. Stated another way, Fabrizio does not criticize, discredit, or other wise discourage the usage of disabling caching to prevent copying. It is extremely known that disabling caching means that disabling writing or copying content on the cache. It would have been obvious for

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one skilled in the art at the time of the invention to combine the teachings of Wiser and what was known in the art in order to disable caching and writing to prevent license information being copied or reproduced at the client's computer. The motivation is provided by Shear, whose method allows users to view a particular multimedia presentation, delivered from a provider, while prevent the users from making a copy of the presentation (col. 8 lines 57-62).

6. As to claim 87, applicant argues that the prior art does not teach a peer-to-peer network for content distribution. Official Notice is taken that peer-to-peer networks are known in the art for content distribution (see e.g., Shear et al., US 2001/0042043, title, abstract, [0044], media rights management in a peer-to-peer distributed environment). It would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Wiser (who teaches registering users and checking passwords) and what was known in the art in order to apply content distribution scheme of Wiser to a peer-to-peer networks to take advantage of peer-to-peer environment such as good scalability and availability of content.

7. Many further arguments regarding prior art teaches away from the claimed invention are respectfully traversed. There is no disclosure, teachings and/or suggestions in the prior art that would enable one of ordinary skilled in the art to conclude that the prior art avoids practicing the claimed invention (such as video conferencing, interactive manner...) The prior art does not criticize, discredit, or other wise discourage the practicing the claimed invention.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 87, 88, 95-100, 102-106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiser et al. (US 6,385,596, hereafter Wiser), in view of what was known in the art at the time of the invention.

10. For claim 87, Wiser discloses a method for managing content in an operating environment that includes nodes, the method comprising the steps of:

- registering users (col. 4 lines 13-14, a consumer registers with the media licensing center);
- checking user passwords to prevent unregistered users from receiving content services (col. 4 lines 19-27, col. 9 lines 19-24, user passphrase created in the registration process used to authenticate the user from accessing media);
- receiving at a first node a request by a registered user for access to content (col. 9, lines 56-60, delivery server receives requests for a media

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- data file) which contains at least one previously treated critical portion (col. 9, lines 25-34, encrypted media data file-related portion); and
- serving at least the critical portion over a network communications link to a second node for presentation to the registered user (col. 9 lines 60-67, deliver the requested media with encrypted portions).

Wiser does not disclose that the invention is applied to peer nodes in a peer-to-peer network.

Official Notice is taken that peer-to-peer networks are known in the art for content distribution (see e.g., Shear et al., US 2001/0042043, title, abstract, [0044], media rights management in a peer-to-peer distributed environment)

Therefore, it would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Wiser and what was known in the art in order to apply content distribution scheme of Wiser to a peer-to-peer networks to take advantage of peer-to-peer environment such as good scalability and availability of content.

11. For claim 88, as applied to claim 87, Wiser-ON further discloses the serving step serves digital content that contains at least one musical recording (Wiser, abstract).

12. For claim 95, as applied to claim 87, Wiser-ON further discloses the critical portion comprises encrypted content (Wiser, col. 7 lines 27-30).

13. For claim 96, as applied to claim 87, Wiser-ON further discloses the critical portion comprises compressed content (Wiser, col. 7 lines 20-25).

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14. For claim 97, as applied to claim 87, Wiser-ON further discloses the critical portion comprises licensed content (Wiser, col. 10 lines 18-24).

15. For claim 98, as applied to claim 87, Wiser-ON further discloses the critical portion comprises content that is compressed and encrypted (Wiser, col. 7 lines 20-30).

16. For claim 99, as applied to claim 87, Wiser-ON discloses the step of disabling use of at least a portion of the content after an expected security handshake is not received (Wiser, col. 10 lines 23-36, audio image data can only be used after authentication using public-private keys). Wiser does not disclose periodic handshaking. ON is taken that periodic handshaking is known in the art (e.g., Viavant et al. US 5,784,566, col. 6 l. 26-27). It would have been obvious for one skilled in the art at the time of the invention to implement periodic handshaking so that content license can be refreshed after a limited use time.

17. For claim 100, as applied to claim 87, Wiser further discloses the step of downloading at least a non-critical portion of the content to the second peer node and the serving step serves the critical portion (col. 9 lines 29-30, send media data and encrypted media key). Wiser does not disclose downloading at least a portion at least one hour before the serving step. However, Official Notice is taken that it was well known how to download a portion of content before serving the content (see e.g., Metz et al., US 5,768,539, col. 38 lines 29-35, download an application file and image before execution of the application). It would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Wiser (col. 9 l. 25-30, media data is non-critical portion and

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encrypted media key is critical portion) and what was known in the art to download a portion of the non-critical content at least one hour (or any time in advance) before serving the critical content so that non-critical bulky content can be pre-downloaded and can be served locally to maximize performance.

18. For claim 102, as applied to claim 87, Wiser-ON further discloses the method moves content between peer nodes in response to actual requests from users (Wiser, col. 9 lines 54-67, deliver content upon user request).

19. For claim 103, as applied to claim 87, Wiser-ON further discloses the method operates in conjunction with a license enforcement software program executing on a client node (Wiser, col. 10 lines 13-16).

20. For claim 104, as applied to claim 87, Wiser-ON further discloses the method tracks content use in order to create records on which invoices are at least partially based (Wiser, col. 9 lines 40-52).

21. For claim 105, as applied to claim 87, Wiser does not disclose the method tracks content location and determines whether content is already resident on the second peer node or near the second peer node. Further ON is taken that tracking whether content is already resident on a node is known in the art (see e.g. Horvitz, US 6,182,133, col. 30 l. 22-23)

22. For claim 106, as applied to claim 87, Wiser-ON further discloses only authenticated network users are able to access the content (Wiser, col. 9 lines 19-37, authentication of users for providing content).

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23. Claims 89-94, 101 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiser, in view of what has been known in the art and Salesky et al. (US 6,343,313, hereafter Salesky)

24. For claims 89 and 90, as applied to claim 87, Wiser-ON does not disclose the serving step serves digital content that contains visual images. However, Salesky discloses the same (Salesky, col. 3 lines 24-26, visual images, col. 3 lines 30-33, video). It would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Wiser, ON and Salesky to provide more variety of content such as images and video to users.

25. For claim 91, as applied to claim 87, Wiser-ON does not disclose the method delivers content by synchronous sharing. However, Salesky discloses real time sharing or streaming of audio and video conferences (Salesky, col. 3 lines 42-50). It would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Wiser, ON and Salesky to provide more variety of content such as real time video conferencing to users.

26. For claim 92, as applied to claim 91. Salesky-Wiser further discloses the method comprises video conferencing (Salesky, col. 3 lines 42-50).

27. For claims 93 and 94, as applied to claim 87, Wiser-ON does not disclose the method delivers content in a real-time manner and/or and interactive manner.

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However, Salesky discloses the same (Salesky, col. 3 lines 42-50; col. 3 lines 42-50, video conference is an interactive application). It would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Wiser, ON and Salesky to deliver content in a real-time manner and/or and interactive manner so that users can interact more efficiently with one another.

28. For claim 101, as applied to claim 87, Wiser-ON does not disclose the method moves content between peer nodes in response to anticipated requests from users. However, Salesky discloses a method of prerecording conference content and delivering them upon anticipation of a time of conference (Salesky, col. 9 line 64-col. 10 line 7). It would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Wiser, ON and Salesky to deliver content to nodes in response to anticipated requests from users so that sessions can be preserved and provided when appropriate delivery time comes.

29. Claims 86 and 107-110 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiser, in view of what has been known in the art (Official Notice or ON), and Shear et al. (US 6,157,721, hereafter Shear).

30. For claim 86, Wiser discloses a method for managing content in a shared use operating environment (abstract), the shared use operating environment including a registration server (fig. 1B media licensing center 110), a content

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server connectable by a network link to the registration server (fig. 1B content manager 112), and a client workstation connectable by a client-server network communications link to the content server (fig. 1A, client system 126 linked to content manager 112 of fig. 1B), the method comprising the steps of:

- registering a user at the registration server, thereby characterizing the user as a registered user (col. 4 lines 13-14, a consumer registers with the media licensing center);
- receiving at the content server a request by the registered user for access to content (col. 9, lines 56-60, delivery server receives requests for a media data file) which contains at least one previously treated critical portion (col. 9, lines 25-34, encrypted media data file-related portion);
- authenticating the request (fig. 9BA, authenticate consumer certificate with receipt 946)
- serving at least the critical portion over the client-server network communications link for presentation to the registered user at the client workstation (col. 9 lines 60-67, deliver the requested media with encrypted portions);

Wiser does not disclose disabling caching and other disk writes to prevent a copy of the critical portion of the content from being created on nonvolatile storage at the client workstation;

However, official notice is taken that it was well known in the art how to disable caching and other disk writes (see e.g. Fabrizio et al., US 5,875,474, col. 4 lines 56-65, col. 5 line 27, disabling disk caching).

Therefore, it would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Wiser and what was known in the art in order to disable caching and writing to prevent license information being copied or reproduced at the client's computer. The motivation is provided by Shear, whose method allows users to view a particular multimedia presentation, delivered from a provider, while prevent the users from making a copy of the presentation (col. 8 lines 57-62).

31. For claim 107, as applied to claim 86, Wiser further discloses reserving a particular piece of content for a particular registered user (Wiser, fig. 9AB, 9BA, col. 16 l. 67- col. 17 l. 5, reservation of content for a registered user). Wiser and Shear do not disclose the piece of content is courseware content. However, Official Notice is taken that courseware content was well known in the art at the time of the invention (see e.g. Hollingsworth et al., US 6,157,808, abstract, training course content). It would have been obvious for one skilled in the art at the time of the invention to apply the teachings of Wiser, Shear to what was known about courseware to reserve a piece of courseware content for users.

32. For claim 108, as applied to claim 86, Wiser-ON-Shear further discloses monitoring the client-server network communications link so that the user pays only for actual use of content ("so that ..." is an intended use, Wiser, fig. 9AA and 9AB, monitoring link between client and servers for payment for use of content).

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33. For claim 109, as applied to claim 86, Wiser-Shear further discloses the step of downloading at least a non-critical portion of the content to the second peer node and the serving step serves the critical portion (Wiser, col. 9 lines 29-30, send media data and encrypted media key). Wiser does not disclose downloading at least a portion at least one hour before the serving step. However, Official Notice is taken that it was well known how to download a portion of content before serving the content (see e.g., Metz et al., US 5,768,539, col. 38 lines 29-35, download an application file and image before execution of the application). It would have been obvious for one skilled in the art at the time of the invention to combine the teachings of Wiser (col. 9 l. 25-30, media data is non-critical portion and encrypted media key is critical portion) and what was known in the art to download a portion of the non-critical content at least one hour (or any time in advance) before serving the critical content so that non-critical bulky content can be pre-downloaded and can be served locally to maximize performance.

34. For claim 110, as applied to claim 86, Wiser-ON-Shear further discloses presenting the registered user with an invoice for usage of the content (Wiser, col. 17 line 61-col. 18 line 4, invoice to user).

Conclusion

35. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for

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reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

36. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu T. Hoang whose telephone number is 571-270-1253. The examiner can normally be reached on Monday-Thursday, 8 a.m.-5 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HH

/Kenny S Lin/

Primary Examiner, Art Unit 2452